



General Assembly

Amendment

February Session, 2010

LCO No. 3549

HB0511703549HD0

Offered by:

REP. ROY, 119th Dist.

SEN. MEYER, 12th Dist.

To: Subst. House Bill No. **5117**

File No. 95

Cal. No. 66

***"AN ACT CONCERNING CONSERVATION AND PRESERVATION
RESTRICTIONS HELD BY THE STATE."***

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 16-50x of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2010*):

5 (a) Notwithstanding any other provision of the general statutes,
6 except as provided in section 16-243, the council shall have exclusive
7 jurisdiction over the location and type of facilities and over the location
8 and type of modifications of facilities subject to the provisions of
9 subsection (d) of this section. When evaluating an application for a
10 telecommunication tower within a particular municipality, the council
11 shall consider any location preferences or criteria (1) provided to the
12 council pursuant to section 16-50gg, or (2) that may exist in the zoning
13 regulations of said municipality as of the submission date of the
14 application to the council. In ruling on applications for certificates or

15 petitions for a declaratory ruling for facilities and on requests for
16 shared use of facilities, the council shall give such consideration to
17 other state laws and municipal regulations as it shall deem
18 appropriate. Whenever the council certifies a facility pursuant to this
19 chapter, such certification shall satisfy and be in lieu of all
20 certifications, approvals and other requirements of state and municipal
21 agencies in regard to any questions of public need, convenience and
22 necessity for such facility.

23 (b) Whenever the council has certified a facility pursuant to this
24 chapter, any person joining in the application for such certification
25 shall be empowered to exercise its powers of eminent domain, granted
26 by the general statutes or any special act, to acquire property for such
27 facility for the benefit of all persons receiving such certificates.

28 (c) Whenever the council has certified a facility pursuant to this
29 chapter and the applicant for such certificate thereafter initiates
30 condemnation proceedings to acquire property for such facility, and it
31 shall appear to the court or judge before whom such proceedings are
32 pending that the public interest will be prejudiced by delay, said court
33 or judge may direct that said applicant be permitted to enter
34 immediately upon the property to be taken and devote it temporarily
35 to the public use specified in the application instituting such
36 proceeding upon the deposit with said court of a sum to be fixed by
37 said court or judge, upon notice to the parties of not less than ten days,
38 and such sum when fixed and paid shall be applied to the payment of
39 any assessment of damages which may be made, with interest thereon
40 from the date of such entry upon said property, and the remainder, if
41 any, returned to said applicant. If such application is dismissed, no
42 assessment of damages is made, or the proceedings are abandoned by
43 said applicant, said court or judge shall direct that the money so
44 deposited, so far as it may be necessary, shall be applied to the
45 payment of any damages that the owner of said property or other
46 parties in interest may have sustained by such entry upon and use of
47 such property, including reasonable attorneys', engineers' and
48 appraisers' fees and other reasonable expenses incurred by such owner

49 or other parties in interest in connection with such proceedings, and
50 the costs and expenses of such proceedings. Such damages shall be
51 ascertained by said court or judge or a committee to be appointed for
52 that purpose, and if the sum so deposited shall be insufficient to pay
53 such damages and all costs and expenses so assessed, judgment shall
54 be entered against said applicant for the deficiency to be enforced and
55 collected in the same manner as a judgment in the Superior Court, and
56 the possession of such property shall be restored to the owner or
57 owners thereof.

58 (d) Any town, city or borough zoning commission and inland
59 wetland agency may regulate and restrict the proposed location of a
60 facility, as defined in subdivisions (3), [and] (4) and (6) of subsection
61 (a) of section 16-50i. Such local bodies may make all orders necessary
62 to the exercise of such power to regulate and restrict, which orders
63 shall be in writing and recorded in the records of their respective
64 communities, and written notice of any order shall be given to each
65 party affected thereby. Such a local body shall make any such order (1)
66 not more than sixty-five days after an application has been filed with
67 the council for the siting of a facility described in subdivision (3) of
68 subsection (a) of section 16-50i, [or] (2) not more than thirty days after
69 an application has been filed with the council for the siting of a facility
70 described in subdivision (4) of subsection (a) of section 16-50i, or (3)
71 not more than sixty days after an application has been filed with the
72 council for the siting of a facility described in subdivision (6) of
73 subsection (a) of section 16-50i. Each such order, except an order
74 concerning a facility, as defined in subdivision (6) of subsection (a) of
75 section 16-50i, shall be subject to the right of appeal within thirty days
76 after the giving of such notice by any municipality required to be
77 served with a copy of the application under subdivision (1) of
78 subsection (b) of section 16-50i or by any party aggrieved to the
79 council, which shall have jurisdiction, in the course of any proceeding
80 on an application for a certificate or otherwise, to affirm, modify or
81 revoke such order or make any order in substitution thereof by a vote
82 of six members of the council."